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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

PERFECT 10, INC., a California  
corporation,

Plaintiff,

v.

YANDEX N.V., a Netherlands limited  
liability company; and DOES 1 through  
100, inclusive,

Defendants.

Case No.: CV 12-1521 WHA

**PLAINTIFF PERFECT 10, INC.'S  
SUPPLEMENTAL MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
OPPOSITION TO YANDEX N.V.'S  
MOTION TO DISMISS FOR LACK  
OF PERSONAL JURISDICTION**

Date: June 14, 2012

Time: 8:00 A.M.

Ctrm: 8

Judge: Honorable William Alsup

**TABLE OF CONTENTS**

I.	INTRODUCTION.....	1
II.	STATEMENT OF RELEVANT FACTS.....	3
A.	Yandex N.V. is in the Search Engine Business.....	3
B.	The Creation and Formation of Yandex Labs.....	4
C.	The Overlap and Close Relationship of Officers and Directors.....	5
D.	Hiring and Firing of Employees and Compensation Packages.....	7
E.	Yandex Inc. Provides Hosting, Web Crawlers, IP Addresses [REDACTED] [REDACTED].....	7
F.	Yandex N.V. uses Yandex Inc. to Facilitate Transactions in the U.S.....	8
G.	Yandex Lab’s Vital Work on the Search Engines.....	11
H.	Shared Finances.....	13
I.	Yandex N.V. Promulgates Company – Wide Policies that Govern Yandex Inc.....	14
J.	Yandex N.V.’s Contacts With California And the U.S.....	14
III.	ARGUMENT.....	16
A.	Legal Standards on Agency Test.....	16
B.	Yandex. Inc. Performs “Sufficiently Important Services”.....	16
C.	Yandex N.V. Controls Yandex Inc.....	19
D.	Yandex N.V. Has Sufficient Contacts with the U.S. To Warrant F.R.C.P. 4(k)(2) Jurisdiction.....	21
IV.	THE IVASHENSTEV A DECLARATION IS FALSE AND MISLEADING.....	22
V.	OTHER YANDEX MISREPRESENTATIONS.....	23
VI.	CONCLUSION.....	25

## TABLE OF AUTHORITIES

### Cases

<i>Acorn v. Household Int’l Inc.</i> 211 F.Supp.2d 1160 (N.D. Cal. 2002).....	20
<i>Bauman v. DaimlerChrysler AG</i> 2005 WL 3157475 at *8 (N.D. Cal. November 22, 2005).....	21
<i>Bauman v. DaimlerChrysler Corp.</i> 644 F.3d 909 (9 <sup>th</sup> Cir. 2011) .....	3, 16, 17, 19
<i>Bellomo v. Penn. Life Co.</i> 488 F.Supp.744 (S.D.N.Y. 1980).....	20
<i>Bulova Watch Co., Inc. v. K. Hattori &amp; Co., Ltd.</i> 508 F.Supp. 1322 (E.D.N.Y. 1981).....	18, 19
<i>Burger King Corp. v. Rudzewicz</i> 471 U.S. 462 (1985).....	21
<i>Doe v. Unocal Corp.</i> 248 F.3d 915 (9 <sup>th</sup> Cir. 2001).....	18
<i>Gallagher v. Mazda Motor of America, Inc.</i> 781 F.Supp. 1079 (E.D.Pa. 1992).....	18
<i>Helm v. Alderwoods Group, Inc.</i> 696 F.Supp.2d 1057 (N.D.Cal. 2009).....	17, 20
<i>Hydoxycut Marketing and Sales Practices Lit.</i> 810 F.Supp.2d 1100 (S.D.Cal. 2011) .....	2, 17
<i>In re Musicmaker.com Securities Lit.</i> 2001 WL 3062431 at *9 (C.D. Cal. June, 4, 2001).....	17
<i>Martin v. D-Wave Systems, Inc.</i> 2009 WL 4572742 at *4 (N.D. Cal. December 1, 2009).....	21, 22
<i>Ochoa v. J.B. Martin &amp; Sons Farms, Inc.</i> 287 F.3d 1182 (9 <sup>th</sup> Cir. 2002).....	21

1 **I. INTRODUCTION**

2 Perfect 10, Inc. (“Perfect 10”) submits this supplemental briefing per the  
3 Court’s June 11, 2012 Order (Dkt. No. 24) (the “Order.”). In the Order, the Court  
4 found that jurisdictional discovery was appropriate to determine: (i) the importance of  
5 Yandex Inc. to Yandex N.V (Order 6:5-10); (ii) whether Yandex N.V. has the right to  
6 exercise control over Yandex Inc. or Yandex LLC (Order 5:26-27; 6:11-14); and (iii)  
7 whether the Court’s exercise of personal jurisdiction over Yandex N.V. comports with  
8 due process to establish nationwide jurisdiction pursuant to Rule 4(k)(2) (Order 9:17).

9 **The Importance Of Yandex Inc.**

10 Discovery has revealed that Yandex Inc. is extraordinarily important to Yandex  
11 N.V.’s search engine business.

12 First Yandex Inc. hosts yandex.com, the English version of Yandex N.V.’s  
13 search engine that has infringed Perfect 10’s copyrights. This means that the  
14 infringing webpages and images that are being offered to users around the world by  
15 Yandex.com are being provided from Palo Alto, California.

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 Fourth, Yandex N.V. used Yandex Inc. to recruit top search engineers from  
26 Silicon Valley to work directly on the Yandex search engines.

27 [REDACTED]  
28

1 [REDACTED]  
2 **Yandex N.V. Has The Right To Control, and Has Controlled, Yandex Inc.**

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 Yandex N.V.'s corporate governance guidelines state that Yandex N.V. is to  
13 manage its subsidiaries, and that no material non-ordinary transaction can be made by  
14 any subsidiary, whether it is Yandex Inc. or Yandex LLC, without Yandex N.V.  
15 approval.

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 In sum, Yandex N.V. is not a passive holding company that simply invests in its  
24 subsidiaries. See *Hydoxycut Marketing and Sales Practices Lit.*, 810 F.Supp.2d 1100,  
25 1118 (S.D. Cal. 2011). Instead Yandex Inc. is Yandex N.V.'s agent because if Yandex  
26 Inc. did not exist, Yandex N.V. would undertake to perform the services rendered by  
27 Yandex Inc. itself. It also has the right to control Yandex Inc. As such, Yandex Inc.'s  
28

1 contacts with California may be imputed to Yandex N.V. under the agency theory. See  
2 *Bauman v. DaimlerChrysler Corp.*, 644 F.3d 909, 921-924 (9<sup>th</sup> Cir. 2011).

3 **Yandex N.V. is Subject to Jurisdiction in the U.S. Pursuant to Rule 4(k)(2)**

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]; its sale of \$401 million in stock  
9 through the U.S. NASDAQ stock exchange; and its other contacts detailed in Section  
10 II.J below are sufficient to establish F.R.C.P. 4(k)(2) jurisdiction.

11 Perfect 10 respectfully requests that Yandex N.V.’s motion should be denied in  
12 its entirety.

13 **II. STATEMENT OF RELEVANT FACTS**

14 **A. Yandex N.V. is in the Search Engine Business**

15 Yandex N.V. is a publicly-traded company that describes itself in its SEC filings  
16 and in its press releases as a “search engine” company. See Perfect 10’s Opposition  
17 Brief (“Oppo Brf.”) (Dkt. No. 21), 2:10-14; Order at 4:18-22. Yandex N.V.’s website,  
18 company.yandex.com, is hosted by Yandex Inc. Supplemental Declaration of Dr.  
19 Norman Zada filed herewith (“Zada Suppl. Decl.”) ¶7, Exh. 14. Most of Yandex  
20 N.V.’s revenues are derived from advertising on its search engines. Oppo. Brf. 4:2-7.  
21 Contrary to what Yandex N.V. may argue, it is *not* a holding company that “invests” in  
22 subsidiaries. [REDACTED]

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED] Perfect 10 alleges that Yandex N.V.  
4 search engines yandex.com and yandex.ru infringe Perfect 10's copyrights.

5 **B. The Creation and Formation of Yandex Labs**

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13         Yandex Inc. does not have its own website. A description of Yandex Labs may  
14 be accessed on the Yandex N.V. website, company.yandex.com website, which also  
15 publishes Yandex N.V.’s SEC filings, Yandex press releases, corporate information,  
16 descriptions of the Yandex management team, and explanations as to how the Yandex  
17 search engines and web crawlers operate. Benink Decl., ¶ 16, Exh. GG.

18 **C. The Overlap and Close Relationship of Officers and Directors**

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]



A horizontal bar chart consisting of 25 black bars of varying lengths. The bars are arranged in a single column, with some bars having significant gaps before them, suggesting a staggered or offset layout. The lengths of the bars vary, with some being nearly full-width and others being much shorter. The bars are arranged in a single column, with some bars having significant gaps before them, suggesting a staggered or offset layout. The lengths of the bars vary, with some being nearly full-width and others being much shorter. The bars are arranged in a single column, with some bars having significant gaps before them, suggesting a staggered or offset layout. The lengths of the bars vary, with some being nearly full-width and others being much shorter.

[REDACTED]

**D. Hiring and Firing of Employees and Compensation Packages**

[REDACTED]

**E. Yandex Inc. Provides Hosting, Web Crawlers, IP Addresses, [REDACTED]**

[REDACTED]

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<sup>1</sup> [REDACTED]

1 Yandex Inc. hosts yandex.com, one of the websites that infringes Perfect 10  
2 copyrights. Zada Suppl. Decl. ¶7, Exh. 14. This website allows the sharing of Perfect  
3 10 images by Twitter and Facebook users. Zada Suppl. Decl. ¶ 12, Exh. 19. Yandex  
4 Inc. also hosts tweetedtimes.com, a Yandex LLC registered website that features major  
5 U.S. media such as USA TODAY and The Washington Post. Zada Suppl. Decl. ¶8,  
6 Exh. 15. [REDACTED]

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

26 **F. Yandex N.V. uses Yandex Inc. to Facilitate Transactions in the U.S.**

27 [REDACTED]  
28

Bar Index	Approximate Length (%)
1	85
2	95
3	98
4	92
5	45
6	35
7	98
8	98
9	92
10	90
11	95
12	88
13	95
14	92
15	95
16	100
17	88
18	92
19	95
20	92
21	95
22	92
23	95
24	30
25	95
26	92
27	95
28	92

1  
2  
3  
4  
5  
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

**G. Yandex Lab’s Vital Work on the Search Engines**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A series of 25 horizontal black bars of varying lengths, representing a redacted list or data set. The bars are arranged in a single column, with some bars being significantly longer than others, creating a jagged right edge. The bars are solid black and have no text or other markings on them.



[REDACTED]

**I. Yandex N.V. Promulgates Company-Wide Policies that Govern Yandex Inc.**

Yandex N.V.’s Corporate Governance Guidelines govern Yandex N.V and its subsidiaries. Fenaughty Tr. at 12:21-13:4, Benink Decl., Exh. B-36. Under these guidelines, Yandex N.V.’s board of directors provide advice and assistance to the subsidiaries’ management and oversee management of the “company,” which is defined as Yandex N.V. and its subsidiaries. All Yandex N.V. subsidiaries must obtain Yandex N.V. approval before they make any material transaction not made in the ordinary course of business. Benink Decl., Exh. B-36, p. 81. [REDACTED]

[REDACTED]

[REDACTED] The policies include matters such as compliance with laws, rules, and regulations; confidentiality; protection and proper use of corporate assets; gifts and gratuities; bribes and kickbacks; accuracy of books

1 and records; concerns about accounting and auditing matters; sexual and racial  
2 harassment; and equal opportunities for employment. Benink Decl., Exh. B-39.  
3 Employees are advised that they may report alleged violations directly to the Yandex  
4 Group's CFO in Russia. Benink Decl., Exh. B-39.

5 **J. Yandex N.V.'s Contacts With California And The U.S.**

6 Yandex N.V. has the following contacts with the U.S.:

- 7 • [REDACTED].  
8 • It designated Yandex Inc. as its agent for process of service in its SEC  
9 filings.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

- 21 • [REDACTED]

22 [REDACTED].

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **III. ARGUMENT**

#### **A. Legal Standards on Agency Test**

A foreign parent company may have the necessary contacts by virtue of its relationship to a subsidiary through either the “alter ego” or “agency” theory. *Bauman*, 644 F.3d at 919. The agency test is satisfied by a showing two things: (1) that the subsidiary performs services that are sufficiently important to the foreign corporation that if it did not have a representative to perform them, the corporation’s own officials would undertake to perform substantially similar services, and (2) the parent has a right to control the subsidiary’s activities. *Id.* at 919–24. *See also*, Order 5:8-14.

#### **B. Yandex Inc. Performs “Sufficiently Important Services”**

The principal focus of the agency test is the importance of the services to the

parent. *Bauman*, 644 F.3d at 922. “The purpose of examining sufficient importance is to determine whether the actions of the subsidiary can be understood as a manifestation of the parent’s presence.” *Id.* at 921. If the parent would undertake the services of the subsidiary if the subsidiary did not exist, then this element is met. *Id.* at 921-922. But this test is met even when those services might be delegated by the parent to another agent or subsidiary. *Id.* at 922, fn. 13. In other words, the test does not ask whether Yandex N.V.’s own officials (represented by a board of directors) would *directly* undertake those services. Here, many of the services Yandex Inc. provides would likely be delegated to Yandex LLC if Yandex Inc. did not exist. [REDACTED]

Yandex N.V. argues that “Yandex N.V. is a holding company acting consistent with its role as an investor. . .” (Dkt. 17-1, 7:21-22). The sufficient importance element has been found where a subsidiary was not a true passive holding company in the business of investing in subsidiaries. In *Hydroxycut*, the parent company Kerr was the parent to 50 corporations described together as the Iovate Companies. In analyzing the agency test, the Court rejected Kerr’s argument that it was a true holding company and held:

It is clear the one business enterprise has been divided into numerous parts that work together and depend on each other. All of the functions of the subsidiaries are devoted to the common end of developing and selling the Iovate Companies’ diet and nutritional supplements.

*Hydroxycut*, 810 F.Supp.2d. at 1119.

The sufficient importance element has also been found where a subsidiary acted as a distribution channel for vehicles in California that accounted for 2.4% of worldwide sales, *Bauman*, 644 F.3d. at 922; where a subsidiary was used by the parent as an agent to implement strategy and to acquire a controlling stake in a third party, *In re Musicmaker.com Securities Lit.*, 2001 WL 3062431 at \*9 (C.D. Cal. June, 4, 2001); and where a subsidiary provided “management, administrative, accounting, and data

1 processing services” for a larger group of 180 companies (“SCI”) involved in the  
2 “death business.” *Helm v. Alderwoods Group, Inc.*, 696 F.Supp.2d 1057, 1064, 1069-  
3 1070 (N.D. Cal. 2009).

4 The Yandex search engines are critically important to Yandex N.V. (Order  
5 5:24-25). [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

1 [REDACTED]

2 Yandex N.V. is not simply a passive holding company investor. Rather Yandex  
3 Inc. is nothing more than an incorporated department of Yandex N.V. whose presence  
4 in Palo Alto, California substitutes for the presence of Yandex N.V. *See Doe v.*  
5 *Unocal Corp.*, 248 F.3d 915, 928-929 (9<sup>th</sup> Cir. 2001); citing *Gallagher v. Mazda Motor*  
6 *of America, Inc.*, 781 F.Supp. 1079, 1083-84 (E.D.Pa.1992); *quoting Bulova Watch*  
7 *Co., Inc. v. K. Hattori & Co., Ltd.*, 508 F.Supp. 1322, 1342 (E.D.N.Y.1981.) If  
8 Yandex Inc. did not exist, Yandex N.V. would certainly have this work performed by  
9 another agent or subsidiary.

10 **C. Yandex N.V. Controls Yandex Inc.**

11 The control required to establish agency is of a lower standard than that under  
12 the alter-ego test. *Bauman*, 644 F.3d. at 922. The Ninth Circuit specifically noted that  
13 it is not a requirement that the parent must exercise actual control over the operations  
14 of its subsidiary on a day-to-day basis for the agency theory to be established. *Id.*  
15 (noting that “this argument is in error because it conflates the agency and alter ego  
16 tests”). **Instead, only a right to control must be established.** And as discussed  
17 above, the right to control is also the lesser important of the two elements necessary to  
18 establish the agency theory.

19 As explained above, Yandex N.V. Corporate Governance Guidelines provide it  
20 with such a right, as Yandex N.V. must approve all material non-ordinary Yandex Inc.  
21 transactions. Benink Decl, Exh. 36, p. 81. Yandex N.V. has demonstrated its  
22 complete control of Yandex Inc [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED] Overlapping directors, while not determinative, is probative of control.  
7 *Acorn v. Household Int'l Inc.*, 211 F.Supp.2d 1160, 1167 (N.D. Cal. 2002) (“several  
8 courts have found such overlapping control structures to be probative of a broad  
9 principal/agent relationship.”)

10 Yandex, Inc. is not a stand-alone company and was not created to make money.

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED].  
14 Yandex’s promulgation of Yandex-wide written policies on matters such as sexual and  
15 racial harassment, and accounting and audit matters, also reflect its control of Yandex  
16 Inc. Benink Decl, Exh. B-39, p. 71-78. See *Helm*, 696 F.Supp.2d at 1070 (finding  
17 employee handbook issued by parent, *inter alia*, supported plaintiffs’ contention that  
18 parent exercises close control of its subsidiaries’ daily operations).

19 Perfect 10’s opposition brief discussed at great length, Yandex N.V. ubiquitous  
20 descriptions of itself and “Yandex” as a search engine company. The existence of a  
21 single brand and image supports the finding of an agency relationship as well. See  
22 *Acorn*, 211 F.Supp.2d at 1165 (“This close relationship between parent and subsidiary  
23 is reflected in HI’s frequent references to itself and its subsidiaries as a single, unitary  
24 enterprise.”); see also *Helm*, 969 F.Supp.2d at 1070 (“...[parent company] SCI’s  
25 imposition of a national SCI brand, Dignity Memorial, on its companies in California .  
26 . .suggest[s] that SCI controls the manner in which SCI’s California businesses provide  
27 mortuary and funeral services.”) Thus, even though SCI had no employees and  
28

1 conducted no business in California, Judge Illston nevertheless found that “defendants  
2 have not provided a basis ‘for distinguishing between the business of the parent and the  
3 business of the subsidiaries,’” and asserted jurisdiction over SCI. *Id.* See also  
4 *Bellomo v. Penn. Life Co.*, 488 F.Supp. 744, 746 (S.D.N.Y. 1980) (asserting  
5 jurisdiction over holding company where business of subsidiaries constituted the only  
6 business of parent.)

7 **D. Yandex N.V. Has Sufficient Contacts With the U.S. To Warrant**  
8 **F.R.C.P. 4(k)(2) Jurisdiction**

9 This Court has already found that Yandex N.V. satisfies the first two  
10 requirements for 4(k)(2) jurisdiction. The final requirement is that the federal court’s  
11 exercise of personal jurisdiction must comport with due process.

12 At its base, due process seeks to ensure that a defendant is not haled into court  
13 for contacts that are random, fortuitous, or attenuated. *Burger King Corp. v.*  
14 *Rudzewicz*, 471 U.S. 462, 475 (1985). It places responsibility on defendant's own  
15 actions that create a substantial connection with the forum. *Id.* The Ninth Circuit's  
16 flexible approach allows for a lesser showing of contacts if considerations of  
17 reasonableness are met. *Ochoa v. J.B. Martin & Sons Farms, Inc.*, 287 F.3d 1182,  
18 1188, n. 2 (9th Cir. 2002).

19 Here, as discussed more thoroughly above, Yandex N.V. has deliberately  
20 injected itself into the U.S. [REDACTED]

21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED] It is also listed on the NASDAQ stock exchange and raised  
26 \$401 million in its IPO, much of which was from U.S. Investors. Benink Decl, Exh. O,  
27 p. 178. It also designated Yandex Inc. as its agent for service of process in its SEC  
28



1 filings. Zada Decl. (Docket 21-1) Exh. 1, p. 1. While listing on a U.S. stock exchange  
2 and designation of an agent in the forum state, may not be enough, by itself to establish  
3 personal jurisdiction, they may be considered in the mix of contacts that the Court  
4 considers. *See Bauman v. DaimlerChrysler AG*, 2005 WL 3157472 at \*8 (N.D. Cal.  
5 November 22, 2005) (“Neither is a listing on a stock exchange, *without more*,  
6 sufficient to confer general jurisdiction.”) (italics added); *Martin v. D-Wave Systems,*  
7 *Inc*, 2009 WL 4572742, at \*4 (N.D. Cal., December 1, 2009) (considering designation  
8 of agent as one of the factors in support of exercise of general jurisdiction).

9 And it would be imminently reasonable for the Court to assert jurisdiction over  
10 Yandex N.V. [REDACTED]

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED] Yandex N.V. cannot possibly argue that  
18 its contacts with the U.S. are random, fortuitous, or attenuated.

19 **IV. THE IVASHENSTEVA DECLARATION IS FALSE AND MISLEADING**

20 Yandex relied almost exclusively in its motion to dismiss, on the declaration of  
21 an outside Yandex N.V. board of director, Elena Ivashentseva. However, her  
22 declaration contains a number of false and/or misleading statements.

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

[REDACTED]

Ivashentseva’s statement that “Yandex LLC surrendered its registration to do business in California several years ago,” is also misleading. Yandex LLC surrendered its registration to do business in California on or about October 19, 2010, approximately a year and seven months before Ivanshentseva signed her declaration. Locke Decl., Exh. 1, p. 3.

**V. OTHER YANDEX MISREPRESENTATIONS**

In addition to the misleading statements made in the Ivashentseva Declaration, Yandex N.V. has also made a number of inaccurate statements to the Court during the

1 discovery hearing on August 8, 2012.<sup>2</sup> For example, in order to persuade the Court  
2 that Dr. Zada should be forced to drive two and a half hours down to San Diego to see  
3 AEO documents, Ms. Kassabian stated to this Court that Dr. Zada “has a mansion in  
4 Beverly Hills.” In fact, Dr. Zada lives in a house in Los Angeles that is not a  
5 “mansion.” Zada Suppl. Decl. ¶¶3, 16, Exh. 23, p. 4. Dr. Zada has lost most of his  
6 money attempting to protect what is left of Perfect 10.

7 Ms. Kassabian also represented to the Court that Yandex only stores thumbnails  
8 on its servers. Zada Suppl. Decl. ¶16, Exh. 23, pp. 7-8. There are in fact, many  
9 hundreds of full-sized Perfect 10 images on yandex servers, surrounded by Yandex  
10 ads. Zada Suppl. Decl ¶11, Exh. 18. Ms. Kassabian also stated that there was no  
11 precedent for a protective order that would allow Dr. Zada to view AEO documents at  
12 his home. Zada Suppl. Decl. ¶16, Exh. 23, p. 3. In fact, other courts have allowed Dr.  
13 Zada unrestricted access to AEO documents. (See Dkt. No. 56-1)

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26 <sup>2</sup> During that hearing, Ms. Kassabian persuaded the Court to trust her  
27 representations that all contracts involving Yandex N.V. would be produced and that  
28 no portions of Yandex N.V. minutes relevant to jurisdictional issues had been redacted.

1 **VI. CONCLUSION**

2 Yandex N.V. is not a passive holding company whose only interest is in owning  
3 profitable subsidiaries. It operates a family of companies together as a single entity,  
4 “Yandex,” whose unitary goal is to make its search engines successful. Yandex N.V.  
5 uses Yandex Inc. as a base for its operations in the U.S. and to provide critical  
6 computer infrastructure for its search engine business. It is imminently fair to hale  
7 Yandex N.V. into a California court considering Yandex N.V.’s numerous contacts  
8 with California and the U.S. Perfect 10 respectfully requests that this Court deny  
9 Yandex N.V.’s motion to dismiss.

10  
11 Dated: August 22, 2012

Respectfully submitted,  
Krause Kalfayan Benink & Slavens, LLP.

12  
13 By: /s/ Eric Benink

14 Eric Benink  
15 Attorney for Plaintiff, Perfect 10, Inc.  
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